

LEGISLATURE OF NEBRASKA
NINETY-NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 699

Introduced by Smith, 48

Read first time January 19, 2005

Committee: Revenue

A BILL

1 FOR AN ACT relating to revenue and taxation; to amend sections
2 19-2428, 77-1347, 77-1355, and 77-1359, Reissue Revised
3 Statutes of Nebraska, and sections 77-1343 and 77-1344,
4 Revised Statutes Supplement, 2004; to eliminate a
5 requirement relating to agricultural or horticultural use
6 zoning; to harmonize provisions; and to repeal the
7 original sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 19-2428, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 19-2428. (1) Whenever the governing body of a city of
4 the first or second class or village creates an improvement
5 district as specified in section 19-2427 which includes land
6 adjacent to such city or village and such adjacent land is within
7 an agricultural use zone and is used exclusively for agricultural
8 use, the owners of record title of such adjacent land may apply for
9 a deferral from special assessments pursuant to sections 19-2428 to
10 19-2431.

11 (2) For purposes of sections 19-2428 to 19-2431:

12 (a) Agricultural or horticultural use means the use of
13 land as defined in section 77-1359, so that incidental use of the
14 land for nonagricultural or nonhorticultural purposes shall not
15 disqualify the land;

16 (b) Zoned for agricultural or horticultural use means
17 designation of any land predominantly for agricultural or
18 horticultural use by any political subdivision pursuant to sections
19 19-924 to 19-933, Chapter 14, article 4, Chapter 15, article 9,
20 Chapter 16, article 9, Chapter 17, article 10, or Chapter 23,
21 article 1. The primary objective of the agricultural or
22 horticultural use zoning shall be to preserve and protect
23 agricultural activities and the potential for the agricultural,
24 horticultural, or open use of land. Uses to be allowed on such
25 lands include primarily agricultural-related or
26 horticultural-related uses, and nonagricultural or nonhorticultural
27 industrial, commercial, or residential uses allowed on such lands
28 shall be restricted so that they do not conflict with or detract

1 from this objective. ~~the terms agricultural use and agricultural~~
2 ~~use zone shall have the meaning specified in section 77-1343.~~

3 Sec. 2. Section 77-1343, Revised Statutes Supplement,
4 2004, is amended to read:

5 77-1343. The purpose of sections 77-1343 to 77-1348 is
6 to provide a special valuation for qualified agricultural or
7 horticultural land so that the current assessed valuation of the
8 land for property tax purposes is the value that the land would
9 have without regard to the value the land would have for other
10 purposes or uses. For purposes of sections 77-1343 to 77-1348:

11 (1) Agricultural or horticultural land means that land as
12 defined in section 77-1359;

13 (2) Agricultural or horticultural use means the use of
14 land as defined in section 77-1359, so that incidental use of the
15 land for nonagricultural or nonhorticultural purposes shall not
16 disqualify the land;

17 (3) Lessee means a person leasing agricultural or
18 horticultural land from a state or governmental subdivision which
19 is an owner that is subject to taxation under section 77-202.11;

20 (4) Owner means an owner of agricultural or horticultural
21 land who holds an estate in fee simple or for life, any one of
22 tenants in common or joint tenants who hold an estate in fee simple
23 or for life, or the purchaser of agricultural or horticultural land
24 under a contract for sale;

25 (5) Recapture valuation means the actual value of the
26 land pursuant to section 77-112;

27 (6) Special valuation means the value that the land would
28 have for agricultural or horticultural purposes or uses without

1 regard to the actual value the land would have for other purposes
2 or uses; and

3 (7) Taxpayer means the owner or lessee that is
4 responsible for paying the property taxes levied on an item of real
5 property. + and

6 ~~(8) Zoned for agricultural or horticultural use means~~
7 ~~designation of any land predominantly for agricultural or~~
8 ~~horticultural use by any political subdivision pursuant to sections~~
9 ~~19-924 to 19-933, Chapter 14, article 4, Chapter 15, article 9,~~
10 ~~Chapter 16, article 9, Chapter 17, article 10, or Chapter 23,~~
11 ~~article 1. The primary objective of the agricultural or~~
12 ~~horticultural use zoning shall be to preserve and protect~~
13 ~~agricultural activities and the potential for the agricultural,~~
14 ~~horticultural, or open use of land. Uses to be allowed on such~~
15 ~~lands include primarily agricultural-related or~~
16 ~~horticultural-related uses, and nonagricultural or nonhorticultural~~
17 ~~industrial, commercial, or residential uses allowed on such lands~~
18 ~~shall be restricted so that they do not conflict with or detract~~
19 ~~from this objective.~~

20 Sec. 3. Section 77-1344, Revised Statutes Supplement,
21 2004, is amended to read:

22 77-1344. (1) Any land which has an actual value as
23 defined in section 77-112 reflecting purposes or uses other than
24 agricultural or horticultural use shall be assessed as provided in
25 subsection (3) of section 77-201 if the land meets the
26 qualifications of this subsection and an application for such
27 special valuation is made and approved pursuant to section 77-1345.
28 In order for the land to qualify for special valuation all of the

1 following criteria shall be met: (a) The land is located outside
2 the corporate boundaries of any sanitary and improvement district,
3 city, or village; and (b) the land is used for agricultural or
4 horticultural purposes. ~~and (c) the land is zoned predominantly~~
5 ~~for agricultural or horticultural use.~~

6 (2) The special valuation provisions may be applicable to
7 real property included within the corporate boundaries of a city or
8 village if the land is subject to a conservation or preservation
9 easement as provided in the Conservation and Preservation Easements
10 Act and the governing body of the city or village approves the
11 agreement creating the easement.

12 (3) The eligibility of land for the special valuation
13 provisions of this section shall be determined as of January 1, but
14 if land so qualified becomes disqualified prior to the levy date of
15 the same year, it shall be valued and carried on the tax roll at
16 its recapture value. If the land becomes disqualified after the
17 date of levy, its valuation for that year shall continue as
18 provided in this section.

19 (4) The special valuation and recapture valuation placed
20 on such land by the county assessor under this section shall be
21 subject to equalization by the agricultural and horticultural land
22 valuation board, the county board of equalization, and the Tax
23 Equalization and Review Commission.

24 Sec. 4. Section 77-1347, Reissue Revised Statutes of
25 Nebraska, is amended to read:

26 77-1347. Upon approval of an application, the county
27 assessor shall value the land as provided in section 77-1344 until
28 the land becomes disqualified for such valuation by:

1 (1) Written notification by the taxpayer to the assessor
2 to remove such special valuation;

3 (2) Sale or transfer to an ownership making it exempt
4 from property taxation;

5 (3) Sale or transfer to the state or its political
6 subdivisions;

7 (4) A change in zoning so that the land is no longer
8 ~~zoned predominantly for agricultural or horticultural use;~~

9 ~~(5)~~ Except as provided in subsection (2) of section
10 77-1344, inclusion of the land within the corporate boundaries of
11 any sanitary and improvement district, city, or village; or

12 ~~(6)~~ (5) The land is no longer used for agricultural or
13 horticultural purposes.

14 Sec. 5. Section 77-1355, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 77-1355. (1) The Greenbelt Advisory Committee is
17 established to assist and advise the Property Tax Administrator in
18 developing uniform and proportionate special valuation of
19 agricultural real property which is ~~zoned for agricultural use and~~
20 subject to land-use controls provided for in sections 77-1343 to
21 77-1348. The advisory committee shall provide advice to the
22 Property Tax Administrator and the Legislature on rules and
23 regulations under section 77-1346 and methods and practices of
24 state and local assessing officials for such special valuation.
25 The Property Tax Administrator shall respond to the recommendations
26 of the advisory committee and explain the basis for approval or
27 rejection of recommendations.

28 (2) The advisory committee shall consist of the following

1 members appointed by the Governor:

2 (a) Two active farmers;

3 (b) An active rancher;

4 (c) A real estate appraiser with expertise in the
5 appraisal of agricultural real estate;

6 (d) A professor of agricultural economics at the
7 University of Nebraska Institute of Agriculture and Natural
8 Resources;

9 (e) An elected county assessor or a designee of the
10 county assessor;

11 (f) A local planning and zoning official;

12 (g) An elected county official who has served or is
13 serving on an agricultural and horticultural land valuation board;
14 and

15 (h) A county attorney who has an understanding of
16 appraisal processes and problems encountered in the valuation of
17 real property.

18 The members shall serve for terms of four years, except
19 that the Governor shall designate three of the initial members to
20 serve for two-year terms. The members shall select a chairperson
21 from the advisory committee's membership. The advisory committee
22 shall meet at least once annually.

23 (3) The advisory committee shall develop recommendations
24 on:

25 (a) When using comparable sales analysis for purposes of
26 establishing the special valuation under sections 77-1343 to
27 77-1348, how such information may be gathered from other counties
28 and locations within a county;

1 (b) When using an income capitalization approach for such
2 special valuation, the income and expense information to be used
3 and the appropriate method of gathering such information;

4 (c) When using the income capitalization approach, the
5 approved methods of determining the capitalization rate, including
6 methods of gathering valid comparable sales for purposes of
7 determining the capitalization rate on comparable agricultural land
8 and horticultural land; and

9 (d) Any further revisions to sections 77-1343 to 77-1348
10 as the committee deems important for uniform enforcement of such
11 sections and uniform special valuation of agricultural real
12 property.

13 (4) Methods and recommendations developed by the advisory
14 committee shall provide for an annually updated analysis based on a
15 three-year average of the information used. The advisory committee
16 may develop recommendations for valuation methods which provide for
17 special valuation of land used for specialized agricultural crop
18 production which is unique or localized to a specific area. The
19 recommendations shall be provided by October 1 each year.

20 (5) The Property Tax Administrator shall provide
21 administrative staff support and information as requested by the
22 advisory committee so long as provision of staff support and
23 information does not impair the ability of the Property Tax
24 Administrator to carry out other statutory obligations.

25 (6) Members shall be reimbursed for actual and necessary
26 expenses pursuant to sections 81-1174 to 81-1177.

27 Sec. 6. Section 77-1359, Reissue Revised Statutes of
28 Nebraska, is amended to read:

1 77-1359. For purposes of sections 77-1359 to 77-1363:

2 (1) Agricultural land and horticultural land shall mean
3 land which is primarily used for the production of agricultural or
4 horticultural products, including wasteland lying in or adjacent to
5 and in common ownership or management with land used for the
6 production of agricultural or horticultural products. Land
7 retained or protected for future agricultural or horticultural uses
8 under a conservation easement as provided in the Conservation and
9 Preservation Easements Act shall be defined as agricultural land or
10 horticultural land. Land enrolled in a federal or state program in
11 which payments are received for removing such land from
12 agricultural or horticultural production shall be defined as
13 agricultural land or horticultural land; ~~Land that is zoned~~
14 ~~predominantly for purposes other than agricultural or horticultural~~
15 ~~use shall not be assessed as agricultural land or horticultural~~
16 ~~land;~~

17 (2) Agricultural or horticultural products shall include
18 grain and feed crops; forages and sod crops; animal production,
19 including breeding, feeding, or grazing of cattle, horses, swine,
20 sheep, goats, bees, or poultry; and fruits, vegetables, flowers,
21 seeds, grasses, trees, timber, and other horticultural crops;

22 (3) Farm home site shall mean not more than one acre of
23 land contiguous to a farm site which includes an inhabitable
24 residence and improvements used for residential purposes, and such
25 improvements include utility connections, water and sewer systems,
26 and improved access to a public road; and

27 (4) Farm site shall mean the portion of land contiguous
28 to land actively devoted to agriculture which includes improvements

1 that are agricultural or horticultural in nature, including any
2 uninhabitable or unimproved farm home site.

3 Sec. 7. Original sections 19-2428, 77-1347, 77-1355, and
4 77-1359, Reissue Revised Statutes of Nebraska, and sections 77-1343
5 and 77-1344, Revised Statutes Supplement, 2004, are repealed.